



## 2005 SENATE BILL 641

February 28, 2006 - Introduced by Senators LAZICH, CARPENTER and ROESSLER, cosponsored by Representatives KRUSICK, GUNDRUM, STONE, AINSWORTH, BIES, HAHN, JESKEWITZ, LEHMAN, LEMAHIEU, MUSSER, NASS, OWENS, SINICKI, ZEPNICK, FRISKE, MURSAU and KAUFERT. Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

1     **AN ACT** *to amend* 165.85 (3) (d); and *to create* 175.40 (6m) of the statutes;  
2           **relating to:** authority for an off-duty peace officer to act outside his or her  
3           territorial jurisdiction.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, a peace officer while on duty and on official business, may make an arrest or provide aid or assistance outside his or her territorial jurisdiction but within the state if all of the following conditions are met: 1) the officer's action would be authorized if done in his or her own jurisdiction; 2) the officer is responding to an emergency situation, which poses a significant threat of death or bodily harm, or the officer is responding to activity that constitutes a felony; and 3) the officer's supervising agency has adopted policies authorizing the officer to act outside his or her jurisdiction, and the officer's actions are in compliance with the policies. Also under current law, a peace officer is immune from civil or criminal liability for acts done in the course of his or her official duty, including acts that meet the above criteria and are committed outside the officer's territorial jurisdiction but within the state.

This bill provides that an off-duty peace officer may make an arrest or provide aid or assistance outside his or her territorial jurisdiction but within the state if conditions similar to those for an on-duty officer acting outside his or her jurisdiction are met. The officer must be engaging in conduct that would be authorized if done in his or her own jurisdiction. The officer may act in response to an emergency that poses a significant threat of death or bodily harm, but may not act solely in response

**SENATE BILL 641**

to commission of a felony. Finally, an off-duty officer may only act outside his or her jurisdiction if the officer's supervising agency has adopted policies authorizing action by off-duty officers outside their jurisdiction and if the officer's acts are in compliance with those policies.

The bill grants a peace officer civil and criminal immunity for acts authorized by the bill that are committed while the officer is off duty and out of his or her jurisdiction but in the state. The bill further provides that an off-duty officer acting outside his or her jurisdiction and in accordance with authority provided in the bill is eligible for worker's compensation benefits, and in general is considered to be performing his or her duty and engaging in his or her occupation so as to be eligible for duty disability benefits. Finally, the bill makes the state, rather than the officer's employer, financially liable for defending against lawsuits, paying damages, and paying worker's compensation benefits arising out of an act committed by an off-duty officer acting outside his or her jurisdiction and in accordance with the authority provided under the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 165.85 (3) (d) of the statutes, as affected by 2005 Wisconsin Act 60,  
2 is amended to read:  
3           165.85 (3) (d) Establish minimum curriculum requirements for preparatory  
4 courses and programs, and recommend minimum curriculum requirements for  
5 recertification and advanced courses and programs, in schools operated by or for this  
6 state or any political subdivision of the state for the specific purpose of training law  
7 enforcement recruits, law enforcement officers, tribal law enforcement recruits,  
8 tribal law enforcement officers, jail officer recruits, jail officers, secure detention  
9 officer recruits, or secure detention officers in areas of knowledge and ability  
10 necessary to the attainment of effective performance as an officer, and ranging from  
11 subjects such as first aid, patrolling, statutory authority, techniques of arrest,  
12 protocols for official action by off-duty officers, firearms, and recording custodial  
13 interrogations, to subjects designed to provide a better understanding of

**SENATE BILL 641**

1 ever-increasing complex problems in law enforcement such as human relations, civil  
2 rights, constitutional law, and supervision, control, and maintenance of a jail or  
3 secure detention facility. The board shall appoint a 13-member advisory curriculum  
4 committee consisting of 6 chiefs of police and 6 sheriffs to be appointed on a  
5 geographic basis of not more than one chief of police and one sheriff from any one of  
6 the 8 state administrative districts together with the director of training of the  
7 Wisconsin state patrol. This committee shall advise the board in the establishment  
8 of the curriculum requirements.

9 **SECTION 2.** 175.40 (6m) of the statutes is created to read:

10 175.40 **(6m)** (a) An off-duty peace officer may arrest a person or provide aid  
11 or assistance outside of his or her territorial jurisdiction but in the state if all of the  
12 following apply:

13 1. The officer is responding to an emergency situation that poses a significant  
14 threat to life or of bodily harm.

15 2. The officer is taking action that he or she would be authorized to take under  
16 the same circumstances in the officer's territorial jurisdiction.

17 3. The officer's supervising agency has adopted written policies authorizing  
18 off-duty officers to make arrests or provide aid or assistance outside of the agency's  
19 territorial jurisdiction but in the state, and the policies at a minimum address all of  
20 the following:

21 a. Reasonable responses to an emergency situation under subd. 1.

22 b. Arrests made in response to an emergency situation under subd. 1.

23 c. Notification of and cooperation with a law enforcement agency of another  
24 jurisdiction regarding arrests made and other actions taken in the other jurisdiction.

25 4. The officer's action is in compliance with the policies under subd. 3.

**SENATE BILL 641**

1 (b) A supervising agency may limit its officer's authority to act under this  
2 subsection by including limitations in the written policies under par. (a) 3.

3 (c) 1. For purposes of civil and criminal liability and for purposes of s. 895.46,  
4 an off-duty peace officer acting outside the officer's jurisdiction as authorized under  
5 this subsection is considered to be acting in an official capacity as an officer of the  
6 state employee, or agent of the state.

7 2. For purposes of worker's compensation under ch. 102, an off-duty peace  
8 officer acting outside the officer's territorial jurisdiction as authorized under this  
9 subsection is considered to be an employee of the state and the officer is eligible for  
10 the same benefits as if the officer had sustained the injury while performing services  
11 growing out of and incidental to the officer's employment with the employing  
12 supervisory agency.

13 3. An off-duty peace officer acting outside the officer's territorial jurisdiction  
14 as authorized under this subsection is considered to be performing his or her duty  
15 and engaging in his or her occupation.

16 (END)